

FILED

WILLIAM B. GUTHRIE
Clerk, U.S. District Court

By _____ Deputy Clerk

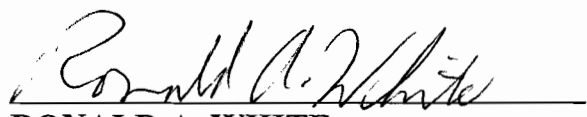
No. CIV 09-136-RAW-SPS

The DOC Offender Grievance Policy, OP-090124(II)(B)(2), states that “[g]rievances may not be submitted about matters that are in the course of litigation.” Plaintiff argues he was not able to utilize the grievance procedures, because he was litigating issues of guard brutality in Oklahoma County District Court Case No. CJ-2008-10810, filed on December 2, 2008. The incidents at issue in this lawsuit, however, allegedly occurred on March 25,

2009, so the claims in this federal action could not have been the subject of plaintiff's state court proceedings.¹ The facility records show that plaintiff failed to initiate any Requests to Staff or grievances in 2009, *see* Docket #19 at 7, so he did not even attempt to exhaust his administrative remedies, as required by the 42 U.S.C. § 1997e(a). Therefore, the court finds he has failed to show his appeal actually was taken in good faith.

ACCORDINGLY, plaintiff's motion to reconsider denial of leave to proceed *in forma pauperis* on appeal [Docket #40] is **DENIED**, pursuant to 28 U.S.C. § 1915(a)(3). Plaintiff is directed to forward the \$455.00 filing fee to the Court Clerk within twenty (20) days.

IT IS SO ORDERED this _____ day of June 2010.


RONALD A. WHITE
UNITED STATES DISTRICT JUDGE

¹ According to The Oklahoma State Court Network, <http://www.oscn.net>, Oklahoma County District Court Case No. CJ-2008-10810 was dismissed on June 25, 2009. The Order dismissing that case indicated plaintiff's libel claim was barred by the statute of limitations, his request for injunctive relief was prohibited by Okla. Stat. tit. 57, § 556.4(c), and he had failed to exhaust the administrative remedies for his claims for review of administrative matters.